

The Lookout Bay
Condominium Trust

vs.

Verdant Medical, Inc. et al.



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18CV00506

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CIVIL TRACKING ORDER (STANDING ORDER 1-88)	DOCKET NUMBER 1872CV00506	Trial Court of Massachusetts The Superior Court	
CASE NAME The Lookout Bay Condominium Trust vs. Verdant Medical, Inc. et al		Scott W. Nickerson, Clerk of Court Barnstable County	
TO: File Copy		COURT NAME & ADDRESS Barnstable County Superior Court 3195 Main Street Barnstable, MA 02630	

TRACKING ORDER - F - Fast Track

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

	SERVED BY	FILED BY	HEARD BY
Service of process made and return filed with the Court		12/17/2018	
Response to the complaint filed (also see MRCP 12)		01/15/2019	
All motions under MRCP 12, 19, and 20	01/15/2019	02/14/2019	03/18/2019
All motions under MRCP 15	01/15/2019	02/14/2019	03/18/2019
All discovery requests and depositions served and non-expert depositions completed	07/15/2019		
All motions under MRCP 56	08/13/2019	09/12/2019	
Final pre-trial conference held and/or firm trial date set			01/10/2020
Case shall be resolved and judgment shall issue by			09/16/2020

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time. Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service. This case is assigned to

DATE ISSUED 09/17/2018	ASSISTANT CLERK Scott W Nickerson	PHONE (508)375-6684
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L ACTION COVER SHEET	TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT		DOCKET NO. <u>1872CV506</u>
	COUNTY	BARNSTABLE	
OF			
PLAINTIFF(S) the Lookout Bay Condominium Trust	DEFENDANT(S) Verdant Medical, Inc, David Abrahamson, Steen Baker, Ryan Campbell, John Golden, Brandon Quisnell,		

Type Plaintiff's Attorney name, Address, City/State/Zip Phone Number and BBO#	Type Defendant's Attorney Name, Address, City/State/Zip Phone Number (If Known)
<u>d S. Reid, Esq</u> <u>2 Route 28</u> <u>Barnmouth MA 02664</u> <u>394-5648</u> <u>415540</u>	

SUPERIOR COURT
BARNSTABLE, SS
FILED SEP 17 2018
Scott W. Wilson Clerk

TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)			IS THIS A JURY CASE?
CODE NO.	TYPE OF ACTION (specify)	TRACK	
C02	Zoning Appeal G L c 40A - Fast Track		<input type="radio"/> Yes <input checked="" type="radio"/> No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

TORT CLAIMS (Attach additional sheets as necessary)	
A. Documented medical expenses to date:	
1. Total hospital expenses	\$ _____
2. Total doctor expenses	\$ _____
3. Total chiropractic expenses	\$ _____
4. Total physical therapy expenses	\$ _____
5. Total other expenses (describe)	\$ _____
	Subtotal \$ _____
B. Documented lost wages and compensation to date	\$ _____
C. Documented property damages to date	\$ _____
D. Reasonably anticipated future medical expenses	\$ _____
E. Reasonably anticipated lost wages and compensation to date	\$ _____
F. Other documented items of damages (describe)	\$ _____
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)	
	Total \$ _____

CONTRACT CLAIMS (Attach additional sheets as necessary)	
Provide a detailed description of claim(s):	
TOTAL \$.....	

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT	
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."	
Signature of Attorney of Record <u>W. Reid</u>	Date: <u>9/17/18</u>
A.O.S.C. 3-2007	

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT OF THE COMMONWEALTH
SUPERIOR COURT

SUPERIOR COURT
BARNSTABLE, SS

FILED

SEP 17 2018

Scott H. Wilson Clerk

BARNSTABLE, ss

CIVIL ACTION: 1872CV506

THE LOOKOUT BAY CONDOMINIUM)
TRUST)

Plaintiff)

v.)

COMPLAINT
(c. 40A §17)

VERDANT MEDICAL, INC., AND)
DAVID ABRAMSON, STEEN BAKER,)
RYAN CAMPBELL, JOHN GOLDEN)
and BRANDON QUISNELL)
Defendants)

COUNT I

1. The Plaintiff, The Lookout Bay Condominium Trust, is the owner of the common areas of the Lookout Bay Condominium, located at Captain Bertie's Way, Provincetown, MA, pursuant to a declaration of trust dated June 28, 2001, and recorded in the Barnstable County Registry of Deeds in Book 13989 at Page 177, as amended.
2. The Defendant, Verdant Medical, Inc., is a Massachusetts Corporation, having a principal place of business at 711 Atlantic Ave., Boston, MA.
3. The named individual Defendants are the duly constituted Planning Board for the Town of Provincetown, MA, all receiving their official mail at the Provincetown Town Hall, 260 Commercial Street, Planning Board Office, Provincetown, MA 02659:
 - i) David Abramson
 - ii) Steven Baker



18CV00506



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iii) Ryan Campbell

iv) John Golden

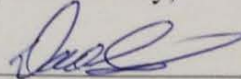
v) Brandon Quesnell

4. On or about May 15, 2018, the Defendant, Verdant, applied to the Defendant Planning Board for special permits in order to be allowed to operate a retail and medical marijuana dispensary at 44 Captain Berties Way (AKA Captain Bertie's Way) (The "subject property").
5. The property of the Plaintiff abuts the subject property.
6. The Defendant Board conducted duly advertised and noticed public hearings on the Defendant's said applications on June 28 and July 26, 2018.
7. At its public haring on July 26, 2018, the member of the Defendant Board voted to grant the requested Special Permits.
8. The Defendant's said decision, granting the special permits, was filed with the Provincetown Town Clerk on August 27, 2018, a copy of which is attached as Exhibit "A".
9. The Plaintiff alleges that the Defendant Board failed to render its decision in accordance with the law, and failed to make the findings required to support the decision, and that its decision is not supported by the facts or the law, and is therefore beyond its jurisdiction, arbitrary and capricious.
10. The Plaintiff is aggrieved by the said decision, and appeals hereto pursuant to General Law c. 40A §17.

Wherefore, the Plaintiff requests that the Court annul the decision of the Defendant Board, and grant such other or further relief as may be deemed just and equitable.

Respectfully Submitted,
The Lookout Bay
Condominium Trust,

By Its Attorney,



David S. Reid, Esq.
1292 Route 28
South Yarmouth, MA 02664
508-394-5648
BBO #415540
DSReid@Verizon.net

dp(f)/lookout bay condo/complaint

Town of Provincetown
Planning Board
Town Hall
Provincetown, MA 02657

FINDINGS AND DECISION OF THE PLANNING BOARD

August 23, 2018

Case Nos.: FY18-34 and FY18-35

Applicant: Anne Nagle, 711 Atlantic Ave., C/O Verdant Medical, Boston, MA 02111

Owner: Klaus Peter Steuermer, PO Box 10, Provincetown, MA 02657

Property: 44 Captain Bertie's Way, Provincetown, MA 02657

Assessor's ID: Map 8-2 Parcel 28

Registry: Book 11890, Page 84

The Town of Provincetown Planning Board (Board) hereby approves the application of Anne Nagle (Applicant) for a Special Permit for Use under the Town of Provincetown Zoning By-laws (By-laws) Article 2, Section 2440(b)(14) and Administrative Site Plan Review under Article 4, Section 4010 for the construction of a +/- 3800 square-foot Marijuana Establishment, Retail on the site of an existing automobile repair facility (Project). This decision is rendered pursuant to a vote of the Board on July 26, 2018.

The application for the Project was received on May 15, 2018. Board members David Abramson, Steven Baker, Ryan Campbell, John Golden and Brandon Quesnell sat on the case. On June 28, 2018 the Board opened the public hearing, the Applicant presented the Project, testimony was taken, changes and additional materials were requested, and the Board continued the public hearing to its regularly scheduled meeting on July 26, 2018.

At the continued public hearing on July 26, 2018 the Board was presented with additional information, closed the public hearing, deliberated, and voted to approve the Project with David Abramson, Steven Baker, Ryan Campbell, John Golden, and Brandon Quesnell in favor. The motion required 4 votes in favor, thus the motion passed and the Project was thereby approved.

FINDINGS

The Board finds as follows:

1. The Property is currently developed with a +/-2200 square-foot automobile repair facility.
2. The Project as proposed consists of the demolition of the existing automobile repair facility and construction of a +/- 3800 square-foot Marijuana Establishment in accordance with the following plan sets:

- *Site Plan, Proposed RMD, 44 Capt. Bertie's Way, Provincetown, Mass., prepared by Hayes Engineering Inc., consisting of 6 sheets, dated 5/11/2018, revised 7/12/2018*

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A
18



- *Landscape Plan in Provincetown, Mass.*, prepared by Hayes Engineering, Inc., dated 7/15/2018
 - *Figure 1 Lighting Plan*, unattributed, dated 7/13/2018
 - Sheet A1.1.1: *First and Second Floor Plan*, prepared by Glidden Spina + Partners, dated 6/6/2018
 - Sheets A3.0.1 and A3.0.2: *Exterior Elevations*, prepared by Glidden Spina + Partners, dated 7/17/2018
 - Traffic Impact Assessment (including trip reduction measures), prepared by Hayes Engineering, Inc., dated January 29, 2018, revised June 11, 2018
 - Storm Water Management Report (including operations and maintenance measures), prepared by Hayes Engineering, Inc., dated May 11, 2018
3. The Project was reviewed on the Special Permit review criteria as listed in Section 5300 of the By-laws and the Site Plan Review review criteria as listed in Section 4035 of the By-laws.
 4. The Board found that the location is appropriate for the proposed use. The Board required, and the Applicant incorporated, the following changes to the original application to ensure the Project would meet the applicable review criteria:
 - The site drive be relocated to the west side of the property so as not to conflict with traffic exiting George's Path;
 - A greater landscape buffer be provided on the east side of the property;
 - A handicap accessible route into the site be provided for those not arriving by car;
 - Details be provided on the proposed bike rack location;
 - Plantings be native and drought-resistant;
 - Exterior elevations and details on materials and fenestration be provided; and
 - The location of the proposed generator and propane tanks be detailed.
 5. The Project as modified fully conforms to the By-laws and the review criteria therein.
 6. The Board approved the Project subject to the conditions herein.

CONDITIONS

The Board approves the Project subject to the following conditions:

1. The Project shall be constructed and maintained in accordance with the plans and other documents referenced herein.
2. The applicant shall provide a directional "entrance" sign at the easterly corner of the site drive's intersection with Captain Bertie's Way as allowed under the By-laws to prevent vehicles passing the drive.
3. All fuel tanks at the site shall be underground in a location accessible from the site drive or parking area. All fueling shall occur from areas internal to the site.
4. Routine testing of the generator shall occur between the hours of noon and 4:00PM on weekdays so as to be least impactful to abutters.
5. Doors and windows for the building shall provide adequate security for the use. Prior to issuance of a Building Permit for the project, detailed specifications on doors and windows shall be submitted for review and approval by Town staff and incorporated by reference into the decision.
6. Bicycle parking for no less than 14 bicycles shall be provided on-site. Bicycle racks shall be of "post and ring" or "inverted u" type.

7. Local delivery of retail product to customers and/or on-site consumption shall not be allowed at the site without modification of this Special Permit.

This Special Permit shall lapse twenty-four (24) months from the date of filing with the Provincetown Town Clerk (plus such time as may be required to pursue or await the determination of an appeal referred to in MGL Chapter 40A, Section 17), if a substantial use thereof or construction has not commenced.

MOTIONS

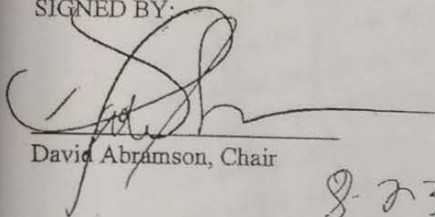
The Town of Provincetown Planning Board voted to approve, with conditions, the Special Permit for application number FY18-34 and the Site Plan Review for application number FY18-35 based on the findings set forth above on July 26, 2018. The motion passed.

Motion: Ryan Campbell

Second: Steven Baker

Vote: 5-0-0

SIGNED BY:



David Abramson, Chair

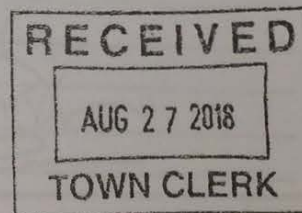
8-23-2018

DATE OF FILING:

A copy of this application will be on file in the Town Clerk's Office as well as the Department of Community Development.

The Special Permit issued hereunder shall not be valid until recorded at the Barnstable County Registry of Deeds as provided in MGL Chapter 40A.

Any appeal of this decision of the Planning Board can be made only to the Court and must be made pursuant to MGL Chapter 40A, Section 17, as amended, and must be filed within 20 days after the date of filing of the decision with the Town Clerk.



EATON - STREETWORKS (FORMER COOPER LIGHTING) UTLD-AF24-100-D-U-T3-HSS
 INNOVATIONS CENTER(G1) test report no. P239676
 lamp(s): XXX
 candela file 'UTLD-AF24-100-D-U-T3-HSS.ies'
 24 lamp(s) per luminaire, photometry is absolute
 Light Loss Factor = 0.850, watts per luminaire = 96
 mounting height= 12 ft
 number locations= 7, number luminaires= 7
 kw all locations= 0.7

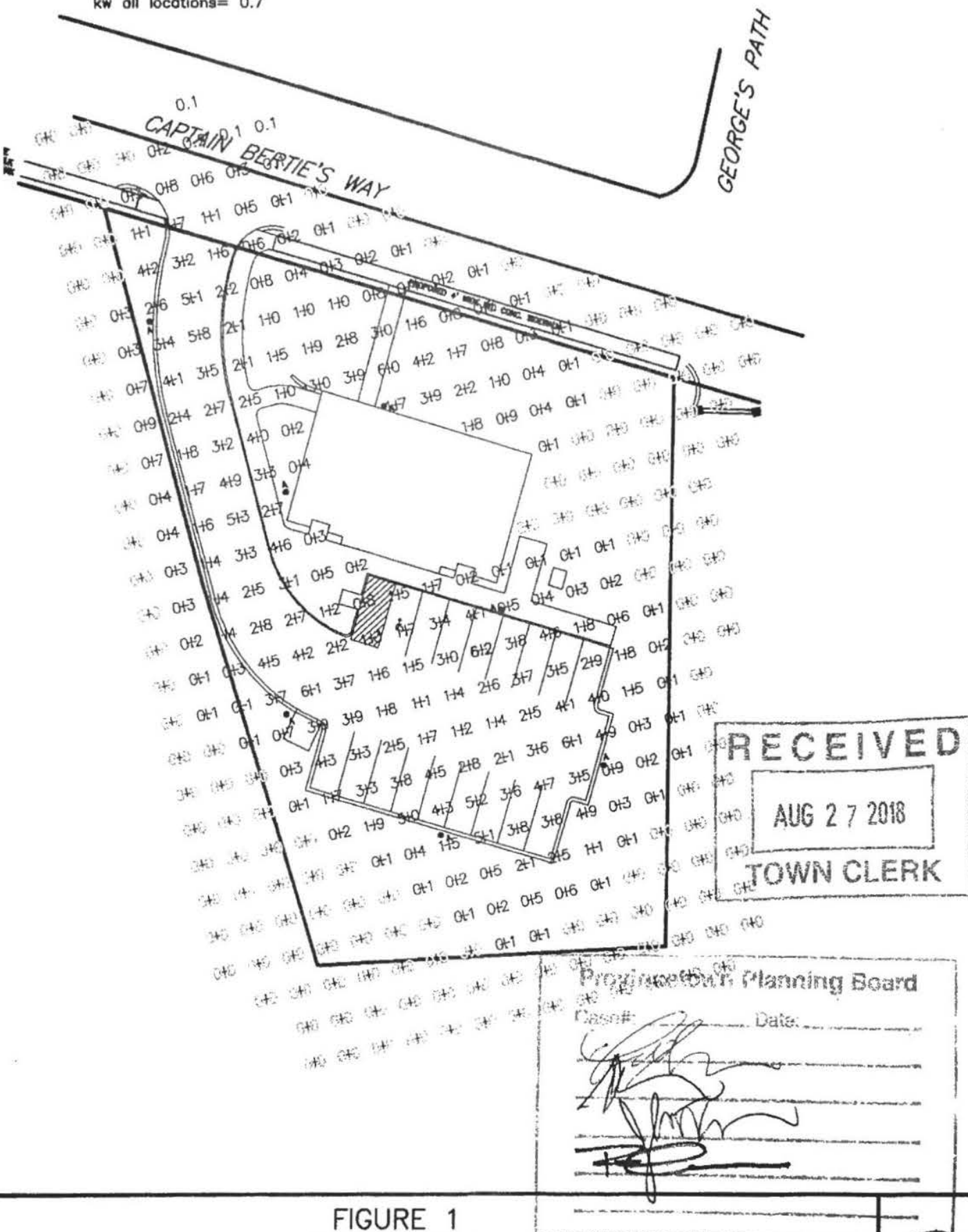


FIGURE 1
 LIGHTING PLAN

PROPOSED RME
 44 CAPTAIN BERTIE'S WAY
 PROVINCETOWN, MASS.

SCALE: 1"=40'
 0' 40' 80'

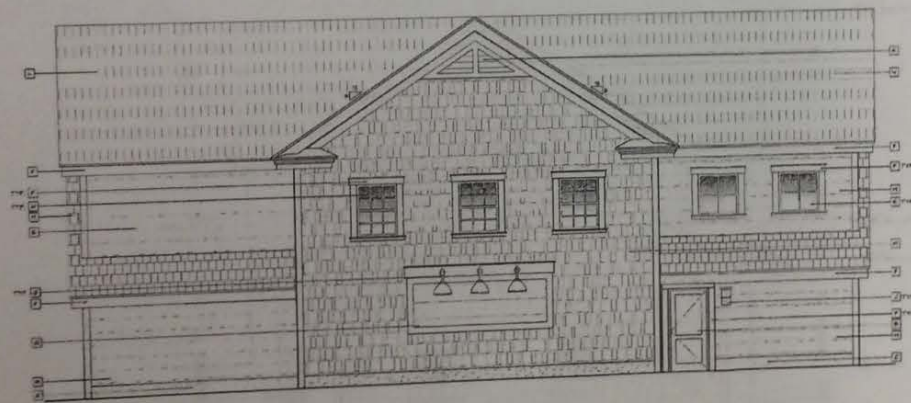
SOURCE:



7/13/18



1 SOUTH ELEVATION



2 NORTH ELEVATION

McGraw-Hill



FORD
FORD MOTOR CREDIT

AMERICAN PSYCHOLOGICAL ASSOCIATION



GENERAL NOTES

PROPOSED ELEV KEYNOTES

1. Aluminum oxide hydroxide oxide
2. Aluminum oxide hydroxide oxide
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20. Aluminum oxide hydroxide oxide


RECEIVED
AUG 27 2018
TOWN CLERK

Provincetown Planning Board

Case#: _____ Date: ____/____/____

~~WATU~~

267 SOUTH STREET
WEST PALM BEACH, FLORIDA 33401
tel: 561.836.8844 - glb@glb.com

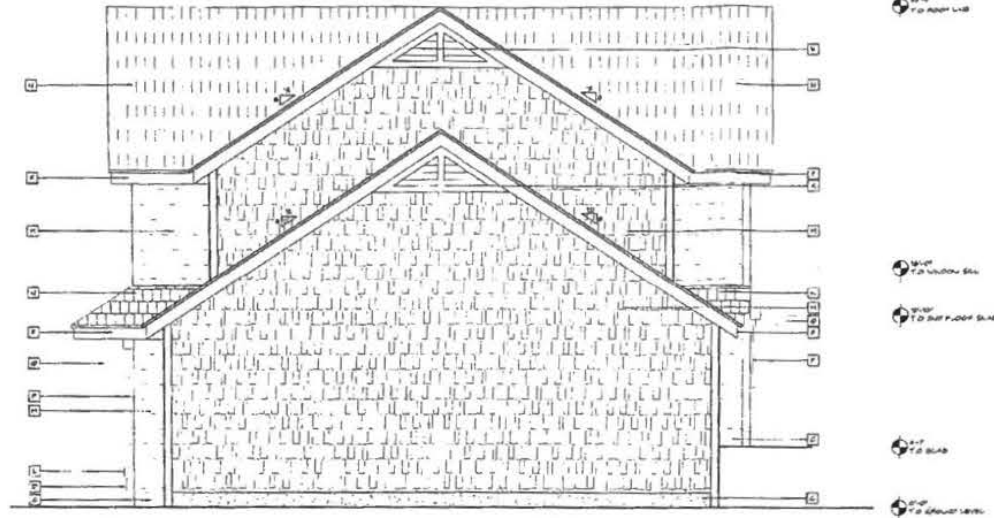


GLIDDENS SPINA
PARTS

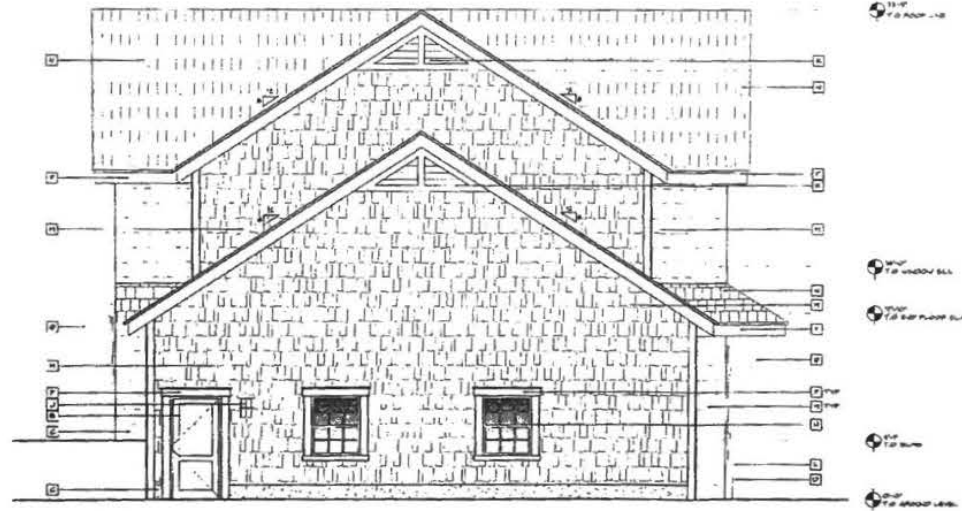
Now Construction for:
Verdant Medical, INC
44 Captain Bertie's Way
Provincetown, Massachusetts

1

A3.0.1



1 EAST ELEVATION
SCALE: 1/8"=1'-0"



2 WEST ELEVATION
SCALE: 1/8"=1'-0"

GENERAL NOTES

PROPOSED ELEV KEYNOTES

- 1 ALUMINUM FRAMED WINDOW/SLAB TRIM
- 2 ALUMINUM FRAMED WINDOW/SLAB TRIM
- 3 CONCRETE BASE WITH TEXTURE FINISH
- 4 STONE CLADDING
- 5 ALUMINUM FRAMED WINDOW/SLAB TRIM
- 6 WOOD PANELS WITH SMOOTH FINISH
- 7 BRICK SLAB WITH WOOD CLADDING
- 8 ALUMINUM FRAMED WINDOW
- 9 WALL MOUNTED SIGNAGE
- 10 DOWN
- 11 STONE SLAB
- 12 EXTENDED STONE
- 13 ARCHITECTURAL ASPHALT SHINGLES
- 14 BRICKWORK WITH STUCCO FINISH
- 15 VINYL INSULATED LIGHT FIXTURE

301 SOUTH STREET
WEST PALM BEACH, FLORIDA 33411
TEL: 561.833.1111
WWW.GLIDDENSPINA.COM



Architectural - Interior Design
with 3D, 4D & 5D

New Construction for:
Verdant Medical, INC
44 Captain Bertie's Way
Provincetown, Massachusetts

These drawings shall not be construed as a contract. The contract shall be the contract documents. The contract documents shall be the contract documents.

Project No. 10000
Date 07.03.20
Project Location 10000

Project No. 10000
Date 07.03.20
Project Location 10000

Project No. 10000
Date 07.03.20
Project Location 10000

Project No. 10000
Date 07.03.20
Project Location 10000

Project No. 10000
Date 07.03.20
Project Location 10000

EXTERIOR ELEVATIONS

A3.0.2

Landscape Plan in PROVINCETOWN, MASS.

Hayes Engineering, Inc.
Civil Engineers & Land Surveyors
603 Salem Street
Wakefield, MA 01880

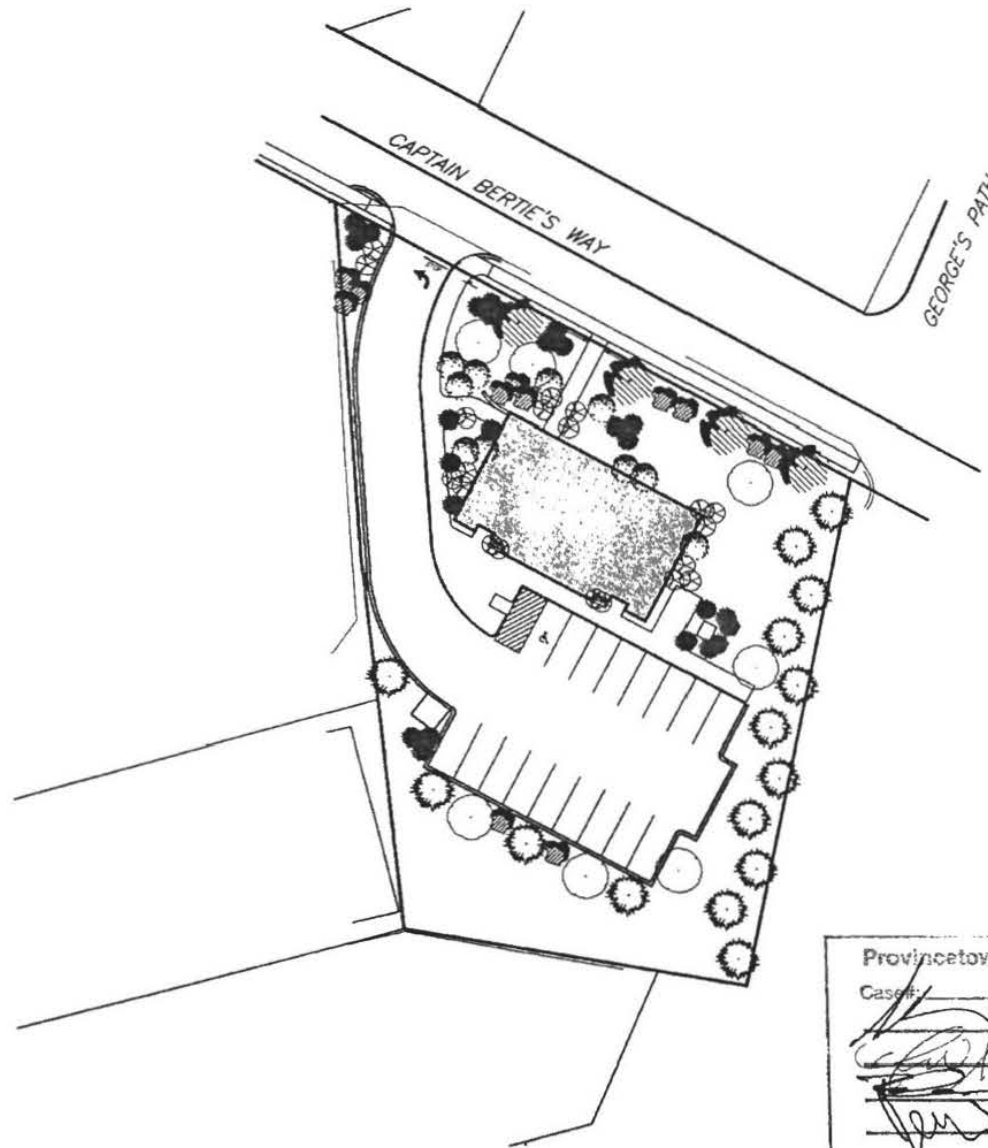
Telephone: 781.246.2800
Facsimile: 781.246.7596
www.hayeseng.com

Scale: 1" = 40'



July 15, 2018

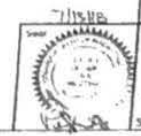
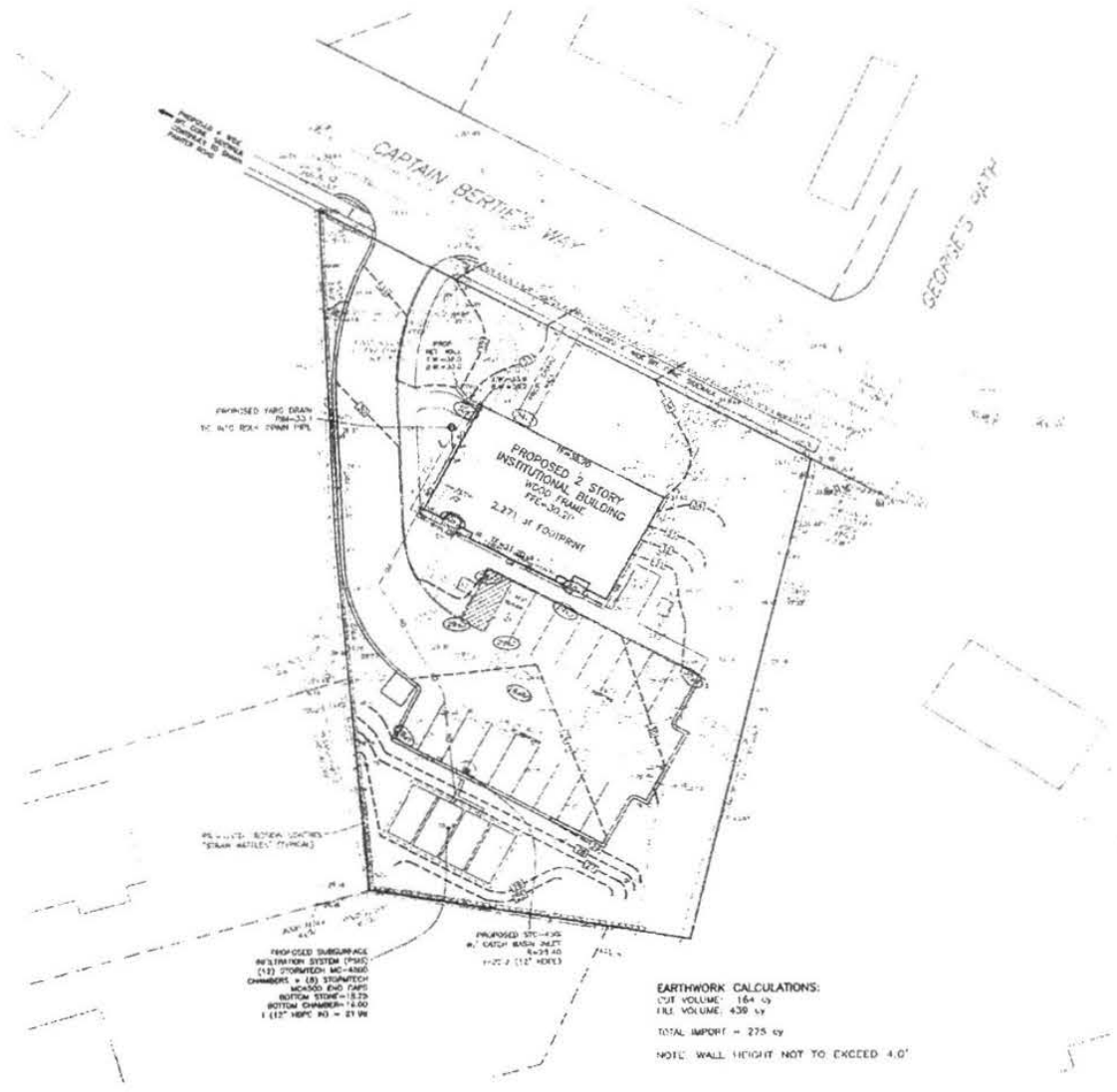
Hayes



Provincetown Planning Board
Case: _____ Date: _____

PLANT SCHEDULE

QTY.	KEY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	SIZE
TREES:					
8	BP		BETULA POPULIFOLIA	GRAY BIRCH	2" Ø
4	NS		NYSSA SYLVATICA	BLACK TUPELO	2" Ø
15	JV		JUNIPERUS VIRGINIANA	EASTERN RED CEDAR	4" Ø
SHRUBS:					
12	MP		MYRICA PENNSYLVANICA	BAYBERRY	5 gal
10	IV		ILEX VERTICILLATA	COMMON WINTERBERRY	3 gal
20	CA		CLETHRA ALNIFOLIA	COASTAL SWEET PEPPERBUSH	3 gal
GRASSES:					
25	VP		VACCINIUM PALLIDUM	LITTLE BLUESTEM GRASS	3 gal



C3
UNIVERSITY & SHAW
SHEET 3 OF 6

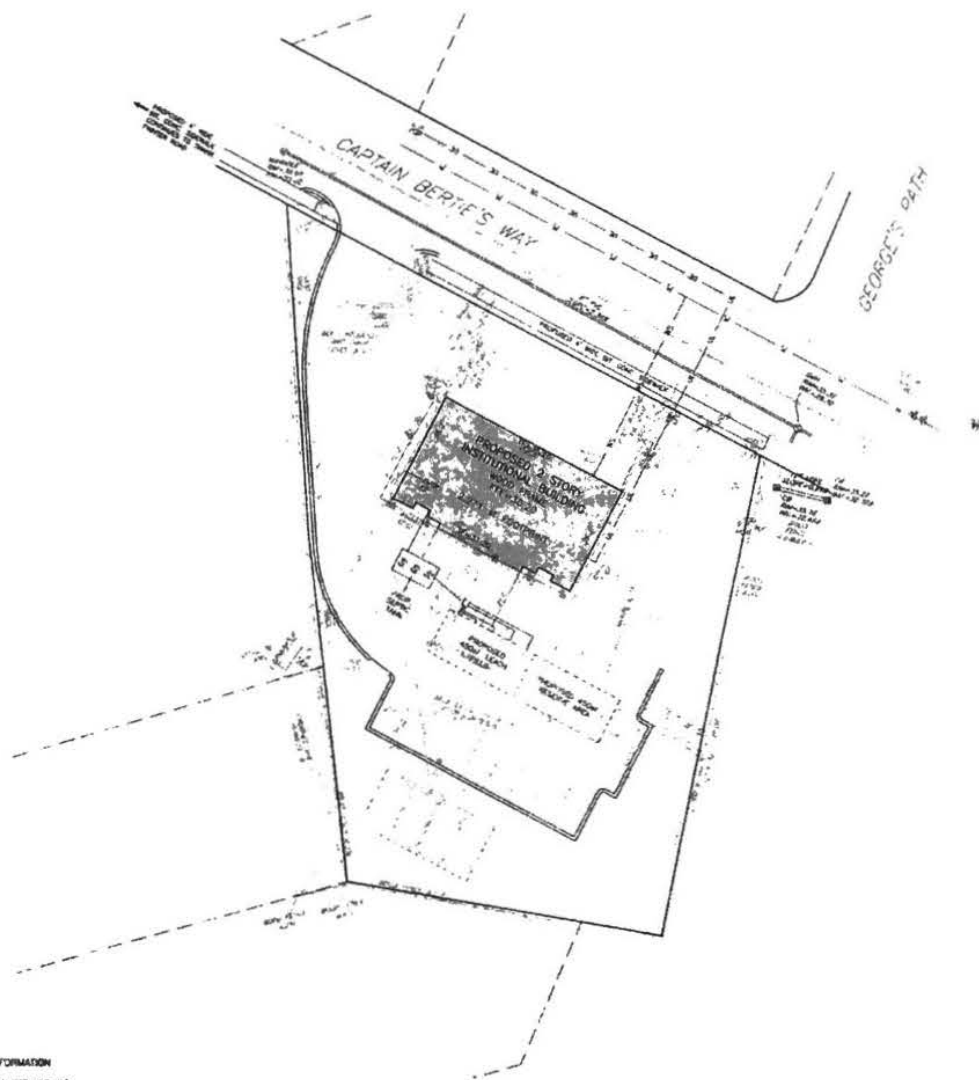
SITE PLAN
PROPOSED RMD
44 CAPT. BERTIE'S WAY
PROVINCETOWN, MASS.



NO.	DATE	BY	CHKD.	APP.
1	7/15/18	W. H. H.		
2	7/15/18	W. H. H.		
3	7/15/18	W. H. H.		
4	7/15/18	W. H. H.		
5	7/15/18	W. H. H.		
6	7/15/18	W. H. H.		
7	7/15/18	W. H. H.		
8	7/15/18	W. H. H.		
9	7/15/18	W. H. H.		
10	7/15/18	W. H. H.		

APPLICANT:
UNIVERSITY & SHAW, INC.
ANNE HADLEY
315 BRADLEY STREET
PROVINCETOWN, MASS 02339
405.590.8328

APPROVED BY:
Hayes
DATE: 7/15/18



CONTRACTOR'S UTILITY NOTES

- 1) THE UNDERGROUND UTILITIES SHOWN HAVE BEEN COMPILED FROM FIELD SURVEY INFORMATION AND AVAILABLE RECORDS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPOSE ALL SUCH UTILITIES IN THE AREA. EITHER IN SERVICE OR ABANDONED. FURTHER, THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES AND DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE.
- 2) THE CONTRACTORS SHALL BE RESPONSIBLE FOR CHECKING AND VERIFYING THE LOCATIONS, DEPTHS, AND ELEVATIONS OF ALL EXISTING UTILITIES SHOWN OR NOT SHOWN ON THESE PLANS AND SHALL NOTIFY THE ENGINEER IN WRITING OF ANY UTILITIES INTERFERING WITH THE PROPOSED DESIGN AND THE APPROPRIATE REMEDIAL ACTION PRIOR TO PROCEEDING WITH THE WORK.
- 3) THE CONTRACTORS ARE RESPONSIBLE FOR CONTACTING BIG SAFE AT (800) 222-4844 PRIOR TO THE START OF ANY CONSTRUCTION.

SANITARY SEPTIC SYSTEM NOTE

SEPTIC SYSTEM DESIGN SUBJECT TO APPROVAL BY TOWN OF PROVINCETOWN BOARD OF HEALTH.



Sheet No.
C4
UTILITIES

SHEET 4 OF 8

SITE PLAN
PROPOSED RMD
44 CAPT. BERTIE'S WAY
PROVINCETOWN, MASS.

Scale: 1" = 20'
0' 10' 20' 40'
Date: May 11, 2018

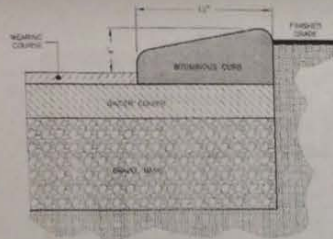
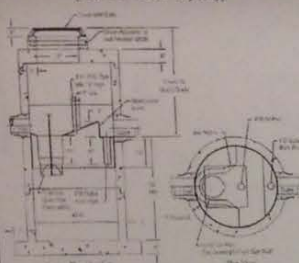
Designed by: [Signature]
Checked by: [Signature]
Approved by: [Signature]
Date: [Date]
Project: [Project Name]
Sheet: [Sheet Number]
Total: [Total Sheets]

APPLICANT:
HAYES MEDICAL, INC.
HAYES MEDICAL, INC.
115 BROADWAY
PROVINCETOWN, MASS 02538
508-550-8877

Pinker

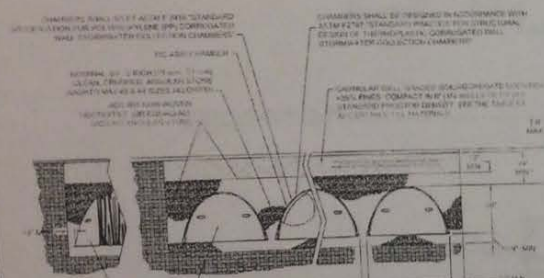
Concrete Pipe Division

STC 4500 Precast Concrete Stormceptor
(450 U.S. Gallon Capacity)

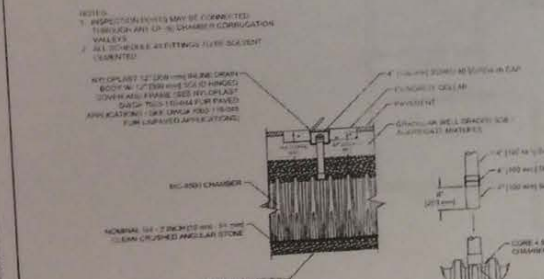


CAPE COD CURB
NOT TO SCALE

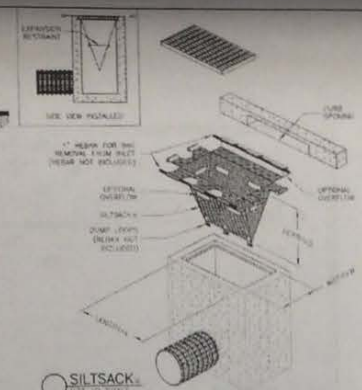
STORMCEPTOR STC 4500
NOT TO SCALE



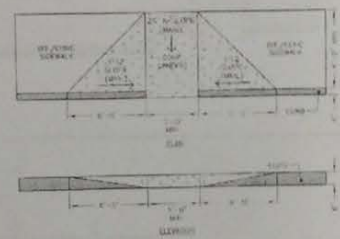
MC-4500 TYPICAL CROSS-SECTION
NOT TO SCALE



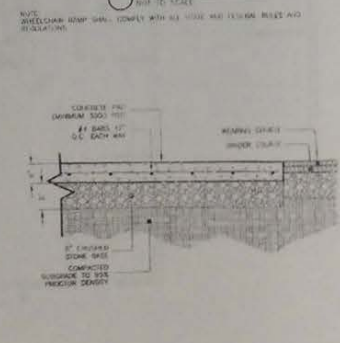
MC-4500 INSPECTION PORT DETAIL
NOT TO SCALE



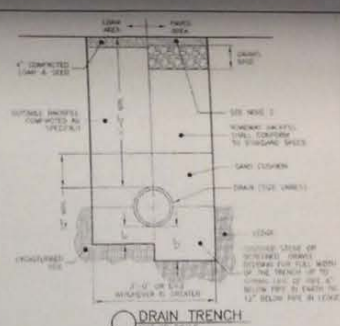
SILTSACK
NOT TO SCALE



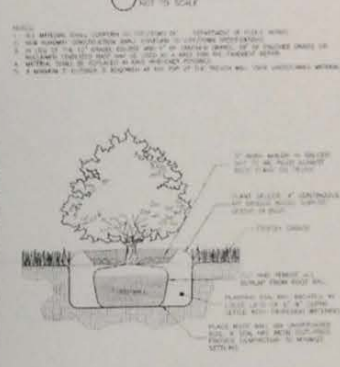
WHEELCHAIR RAMP
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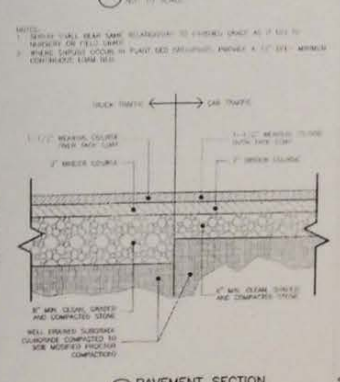
DUMPSTER PAD
NOT TO SCALE



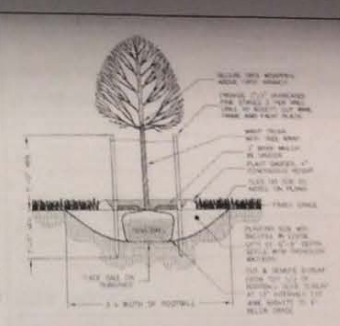
DRAIN TRENCH
NOT TO SCALE



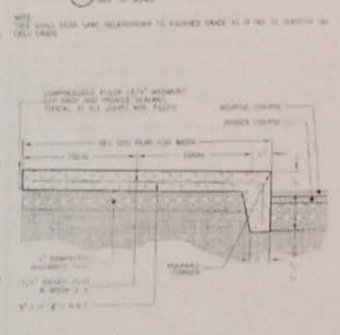
SHRUB PLANTING
NOT TO SCALE



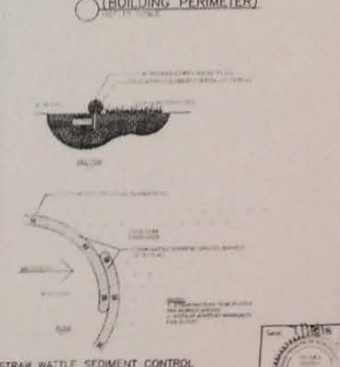
PAVEMENT SECTION
NOT TO SCALE



DECIDUOUS TREE PLANTING
NOT TO SCALE



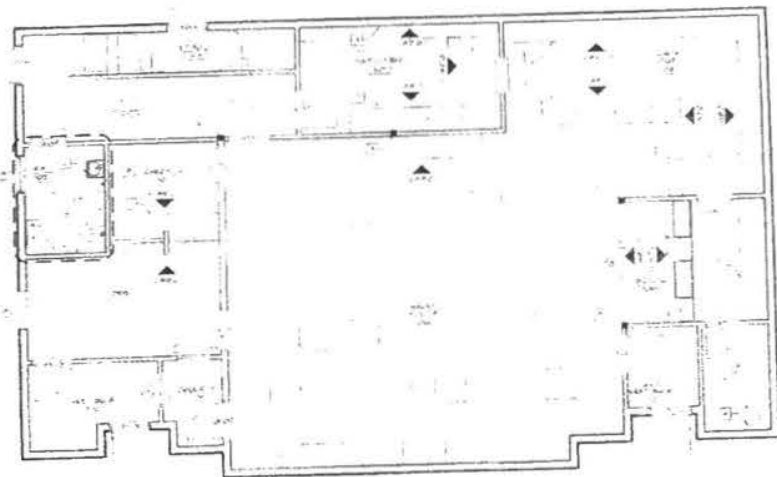
CONCRETE SIDEWALK (BUILDING PERIMETER)
NOT TO SCALE



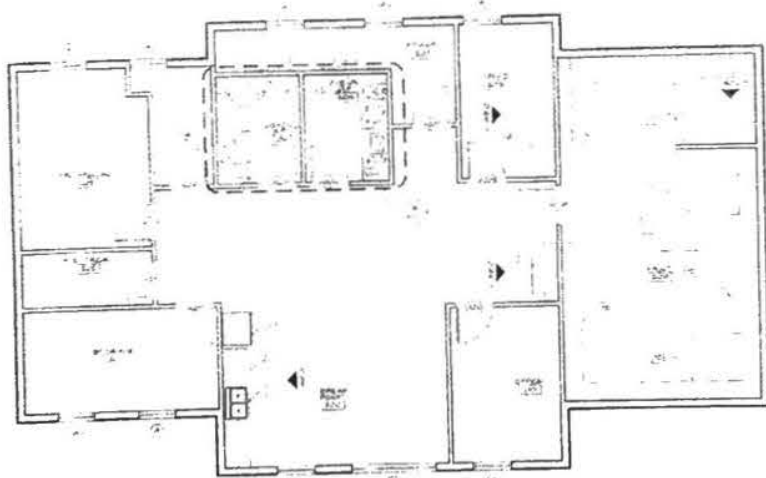
STRAW WATTLE SEDIMENT CONTROL
NOT TO SCALE

SITE PLAN
 PROPOSED RMD
 44 CAPT. BERTIE'S WAY
 PROVINCETOWN, MASS.

SHEET 6 OF 6
 C6
 08/08



1 FIRST FLOOR PLAN



1 SECOND FLOOR PLAN

SYMBOL LEGEND

WALL LEGEND

KEY NOTES

New Construction for
Verdant Medical, INC
44 Captain Bertie's Way
Provincetown, Massachusetts

A1.1.1